

IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF OKLAHOMA

STATE OF OKLAHOMA, ex rel W.A.
DREW EDMONDSON in his capacity as
ATTORNEY GENERAL OF THE STATE
OF OKLAHOMA, ET AL.

Plaintiff,

vs.

TYSON FOODS, INC., ET AL.

Defendants.

Case No. 05-CV-0329-GKF-SAJ

STATE OF OKLAHOMA'S RESPONSE TO DEFENDANT'S REQUEST'SFOR
ADMISSION

Pursuant to Fed. R. Civ. P. 36, plaintiff State of Oklahoma, ex rel. W.A. Drew Edmondson, in his capacity as Attorney General of the State of Oklahoma, and Oklahoma Secretary of the Environment, C. Miles Tolbert, in his capacity as the Trustee for Natural Resources for the State of Oklahoma under CERCLA ("the State"), objects and responds as follows to "Defendants' Requests for Admission to the State of Oklahoma":

GENERAL OBJECTIONS

1. The State objects to the definition of "Plaintiffs," "you" and "your" to the extent it includes "all offices, personnel, entities, and divisions of the Oklahoma state government" and to the extent it includes "W.A. Drew Edmondson and the office of the Oklahoma Attorney General, Miles Tolbert and the office of the Oklahoma Secretary of the Environment and their attorneys, experts, consultants, agents and employees." The plaintiff -- singular -- in this action is the State as sovereign; it is not these additional entities and individuals. Accordingly, wherever in these requests for admission the terms "Plaintiffs" [sic], "you" and "your" are used the State is responding as the sovereign and the sovereign alone.

intervention. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiving any objection, the State denies that elemental nitrogen, elemental arsenic, elemental zinc, and elemental copper occur naturally within the Illinois River Watershed. The State admits that phosphorus compounds, nitrogen compounds, arsenic compounds, zinc compounds, hormones and bacteria may occur naturally within the Illinois River Watershed.

REQUEST FOR ADMISSION NO. 10

Poultry litter does not contain elemental phosphorus.

RESPONSE TO ADMISSION NO. 10

This request is being responded to in accordance with and subject to objection number 8. Admitted.

REQUEST FOR ADMISSION NO. 11

Elemental phosphorus is on the CERCLA Hazardous Substances List.

RESPONSE TO ADMISSION NO 11.

The State objects to the definition of CERCLA Hazardous Substances list. See General Objection No. 3. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State admits.

REQUEST FOR ADMISSION NO. 12

The following substances are not on the CERCLA Hazardous Substances List: phosphate, orthophosphate, elemental nitrogen, and elemental copper.

RESPONSE TO ADMISSION NO 12.

The State objects to the definition of CERCLA Hazardous Substances list. See General Objection No. 3. This request is being responded to in accordance with and subject to objection number 8. Subject to and without waiver of any objection, the State denies that phosphate,

RESPONSE TO REQUEST NO. 230

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State denies.

REQUEST FOR ADMISSION NO. 231

Plaintiffs have not incurred any costs for hauling poultry litter out of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 231

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State denies.

REQUEST FOR ADMISSION NO. 232

Plaintiffs have not incurred any costs associated with managing and disposing of poultry litter within or outside of the Illinois River Watershed.

RESPONSE TO REQUEST NO. 232

The State objects to the term "Plaintiffs" as there is only one Plaintiff, the State of Oklahoma. Subject to and without waiver of this objection, the State denies.

VIII. DEFENSES RELATING TO THE USE OF POULTRY LITTER AS A FERTILIZER AND SOIL AMENDMENT

REQUEST FOR ADMISSION NO. 233

Poultry litter has been used as a fertilizer or soil amendment in the Illinois River Watershed for more than fifty years.

RESPONSE TO REQUEST NO. 233

Admitted, to the extent in limited instances poultry litter has been used as a fertilizer or soil amendment at various times during the last fifty years. The State denies that poultry litter has been land applied as a fertilizer or soil amendment predominantly during that period of time.

REQUEST FOR ADMISSION NO. 234

The State of Oklahoma has issued animal waste management plans to poultry producers specifying the location and amounts for the land application of poultry litter in the Illinois River Watershed.

RESPONSE TO REQUEST NO. 234

The State objects to the term "issued" as the State does not issue animal waste management plans. Subject to and without waiver of this objection, the State denies.

REQUEST FOR ADMISSION NO. 235

Animal waste management plans issued by the State of Oklahoma to poultry producers permit or authorize the application of poultry litter to lands in the Illinois River Watershed when soil tests show the soil of the relevant parcel of land contains total P of up to 300 lbs per acre.

RESPONSE TO REQUEST NO. 235

The State objects to the term "issued" as the State does not issue animal waste management plans. Subject to and without waiver of this objection the State denies.

REQUEST FOR ADMISSION NO. 236

Animal waste management plans issued by the State of Oklahoma to poultry producers do not limit or restrict the land application of poultry litter in the Illinois River Watershed to the agronomic needs of plants or crops for elemental phosphorus or phosphorus compounds.

I hereby certify that on this 20th day of April, 2007, I served the forgoing document by U.S. Postal Service on the following:

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*Resp.
to Reg. for
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